

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOHNNY TWITTY,

Petitioner,

v.

PATRICK GLEBE,

Respondent.

CASE NO. CV13-5947-BJR

ORDER DENYING PETITION FOR WRIT
OF HABEAS CORPUS

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court, having reviewed the petition for writ of habeas corpus, the Report and Recommendation of the Honorable Karen L. Strombom, United States Magistrate Judge, and the balance of the record, does hereby find that:

- (1) The Court adopts the Report and Recommendation;
- (2) The Court finds that the Magistrate Judge correctly concluded in the Report and Recommendation that Petitioner's constitutional claims should be rejected without an evidentiary hearing. Petitioner's Objections to the Report and Recommendation do not satisfy the standard set forth by AEDPA for claims

1 adjudicated on the merits in state court, because they do not demonstrate that the
2 adjudication in state court was (1) contrary to, or involved an unreasonable
3 application of, clearly established federal law, as determined by the Supreme
4 Court of the United States, or (2) based on an unreasonable determination of the
5 facts in light of the evidence presented in the state court proceeding. 28 U.S.C. §
6 2254(d). Further, Petitioner fails to demonstrate that the petition's factual
7 allegations, if proven through an evidentiary hearing, would entitle him to federal
8 habeas relief. *See Schriro v. Landrigan*, 550 U.S. 465, 474 (2007). Lastly,
9 Petitioner has failed to make a substantial showing of the denial of his
10 constitutional rights under the Sixth and Fourteenth Amendments, and is therefore
11 not entitled to a certificate of appealability. 28 U.S.C. § 2253(c).
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- 13 (3) Accordingly, Petitioner's request for an evidentiary hearing is DENIED;
14 (4) Petitioner's petition for writ of habeas corpus is DISMISSED with prejudice;
15 (5) Petitioner's request for a certificate of appealability is DENIED; and
16 (6) The Clerk of the Court is respectfully directed to send copies of this Order to
17 Petitioner, Respondent, and to Judge Strombom.
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19 **IT IS SO ORDERED.**

20 DATED this 14th day of July, 2014.
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BARBARA J. ROTHSTEIN
UNITED STATES DISTRICT JUDGE